

ARTICLES OF INCORPORATION  
OF  
BRYAN SQUARE HOMEOWNERS ASSOCIATION,  
INC.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS



**C E R T I F I C A T E**

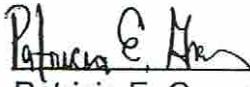
**THIS IS TO CERTIFY** that all applicable provisions of the District of Columbia NonProfit Corporation Act have been complied with and accordingly, this **CERTIFICATE OF INCORPORATION** is hereby issued to:

**BRYAN SQUARE HOMEOWNERS ASSOCIATION, INC.**

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the seal of this office to be affixed as of the **15th day of December, 2003**.

David Clark  
DIRECTOR

John T. Drann  
Acting Administrator  
Business Regulation Administration

  
\_\_\_\_\_  
Patricia E. Grays 10/14  
Superintendent of Corporations  
Corporations Division

Anthony A. Williams  
Mayor

ARTICLES OF INCORPORATION  
OF  
**BRYAN SQUARE HOMEOWNERS ASSOCIATION, INC.**

In compliance with the requirements of the District of Columbia Nonprofit Corporation Act (D.C. Code 2001, Title 29, Section 29-301.01 *et seq.*), the undersigned, being at least eighteen (18) years of age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

**ARTICLE I**

**NAME OF THE ASSOCIATION**

The name of the corporation is Bryan Square Homeowners Association, Inc. (hereinafter called the "Association").

**ARTICLE II**

**PURPOSES AND POWERS OF THE ASSOCIATION**

2.1 The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are:

(a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Bryan Square Declaration of Covenants, Conditions and Restrictions (hereinafter called the "Declaration"), and all Supplementary Declarations thereto, applicable to all or any part of the property subjected to the Declaration (the "Property") in the Land Records of the District of Columbia, as the same may be amended from time to time as therein provided, said Declaration being incorporated herein

DEC 15 2003

**FILE**

and made a part hereof. Unless the context requires otherwise, the term Declaration shall include all Supplementary Declarations.

(b) To provide for the maintenance, preservation and architectural control of the Lots and Common Areas (as said terms are defined in the Declaration) within that certain Property as described in the Declaration, and any and all other properties which may be annexed thereto in accordance with the provisions of the Declaration.

(c) To promote the general health, safety and welfare of the residents within the residential community created at the Property.

(d) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in any and all easement and cost-sharing agreements and other agreements affecting the Property, as the same may be amended from time to time.

2.2 Without limiting the generality thereof, subject to such limitations as are set forth in the Declaration, said powers and duties of the Association shall be:

(a) To acquire (by gift, purchase or otherwise), own, hold, improve, maintain, manage, lease, pledge, convey, transfer or dedicate real or personal property for the benefit of its members in connection with the affairs of the Association, except that no dedication, sale or transfer of the Common Areas shall be effective, nor shall any mortgaging of the Common Areas be effective, unless sixty-seven percent (67%) of each class of Members and fifty-one percent (51%) of the Eligible Mortgage Holders shall have consented to such dedication, sale, transfer, or mortgaging of the Common Areas.

(b) To establish, and amend from time to time, and enforce compliance with, such reasonable rules and regulations as may be necessary to govern the use of the Association's property and facilities thereon, and the personal conduct of the Members of the Association and their guests thereon, and to establish penalties for the violation of same.

(c) To fix, levy and collect assessments, including, without limitation, the establishment of reserves, all as provided in the Declaration.

(d) To pay all expenses incident to the conduct of business of the Association.

(e) To enter into, make, grant, perform, enforce and vacate contracts, agreements, licenses, leases, easements and/or rights-of-way over and across the Common Areas, and to the extent provided in the Declaration, the Lots, including, without limitation, to public agencies to serve necessary public purposes, to the Condominium Association (as defined in the Declaration), those that may otherwise be or become necessary, or deemed reasonable by the Board of Directors, or those anticipated pursuant to easement and cost-sharing agreements and other agreements affecting the Property, or as otherwise provided in accordance with the provisions of the Declaration.

(f) To employ, enter into contracts with, delegate authority to and supervise such persons or entities as may be appropriate to manage, conduct and perform the business obligations and duties of the Association.

(g) To participate in mergers and consolidations with other non-profit corporations organized for the same purposes, subject to the conditions set forth in the Declaration, including, without limitation, the affirmative vote of at least sixty-seven percent

(67%) of each class of Members, and the approval of FHA, if and to the extent required in the Declaration, and subject to such other approvals and consents as are required in Article VIII of the Declaration.

(h) To dedicate, sell or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes, and subject to such conditions, as may be agreed to by the Members. No such dedication or transfer shall be effective unless at least sixty-seven percent (67%) of each class of Members have consented to such dedication, sale or transfer, or mortgaging of the Common Areas and provisions of the Declaration have been complied with, to the extent applicable; and further provided, that any conveyance of the Common Areas shall be subject to the easements granted across the Common Areas pursuant to the Declaration.

(i) To borrow money, and with the consent of sixty-seven percent (67%) of each class of Members, for the purpose of improving the Common Areas and any facilities thereon in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof to mortgage, pledge, deed in trust, or hypothecate any or all of the real or personal property owned by the Association as security for money borrowed or debts incurred.

(j) To perform such acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be foreclosed or suspending membership rights, for enforcing or effectuating any of the provisions of the Declaration, these Articles, and the Bylaws of the Association.

(k) To take all actions and perform all duties and obligations under the Easement and Cost-Sharing Agreement (as defined in the Declaration), including, without limitation, satisfying all obligations of the Association to Maintain the Shared Improvements (as defined in the Declaration), to prepare budgets as may be required, to collect and remit the Association's share of the assessments, if any, under the Easement and Cost-Sharing Agreement, to appoint Members of the Association to serve on the Management Committee under the Easement and Cost-Sharing Agreement, to enforce or defend rights, obligations, easements, burdens and benefits, and to provide all consents, waivers, approvals, under Easement and Cost-Sharing Agreement.

(l) To take all actions, as may be reasonably necessary or appropriate to perform the obligations of the Association, and to enforce or defend rights, obligations, easements, burdens and benefits under any and all other third party agreements affecting the Property, including without limitation, providing all consents, waivers, approvals, appointments, responses to requests for approval, performing all maintenance obligations, bringing or defending a suit, causing a lien to be filed or foreclosed, or removed, and exercising all remedies available for enforcing or effectuating any of the provisions of such third party agreements.

(m) To regulate the external design, appearance and location of the Association's property and the improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among the structures and the natural vegetation and topography, and to review, modify, and approve architectural standards adopted by the Architectural Review Board.

- (n) To form subsidiary corporations.
- (o) To exercise any and all powers, rights and privileges which a corporation organized under the District of Columbia Nonprofit Corporation Act by law may now or hereafter have or exercise.
- (p) Upon tender of a deed from the Declarant (as hereinafter defined) with respect to the Common Areas, to accept fee simple title to the Common Areas from the Declarant, which deed shall include, if requested by the Declarant, an acknowledgment by the Association of its obligations with respect to the Common Areas.
- (q) Within sixty (60) days following the later to occur of (i) conversion of the Declarant's Class B Membership to Class A Membership as provided for in Article IV hereof, or (ii) final paving of the private streets within the Property by the Declarant, to provide the Declarant with a written notice, for and on behalf of the Association, of any and all deficiencies in, or repairs required with respect to, the Common Areas; and any failure of the Board of Directors to provide such written notice to the Declarant within said sixty (60) day period shall be deemed a waiver by the Association of the right to provide such notice or to initiate an action, claim or litigation against the Declarant based upon, or by reason of, such deficiencies or damage requiring repair.

### **ARTICLE III**

#### **NO CAPITAL STOCK**

This Association is not authorized to issue any capital stock, and shall not be operated for profit. The Association does not anticipate distributing dividends, gains or profits to its

Members. No Member shall have any personal liability for the debts or obligations of the Association.

## ARTICLE IV

### MEMBERSHIP AND VOTING

4.1 Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to the Declaration (an "Owner") shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Association shall have two classes of Members as follows:

Class A. Class A Members shall be all Owners of Lots, except the Class B Member. Class A Members shall be entitled to one vote for each Lot owned, except for Garage Lots (as defined in the Declaration).

Class B. The Class B Member shall be Bryan School Associates Limited Partnership, a District of Columbia limited partnership (the "Declarant"), its successors and assigns (i) to whom the Declarant assigns any or all of its rights as Declarant pursuant to the Declaration, by assignment recorded in the Land Records of the District of Columbia, or (ii) who is a purchaser at foreclosure with respect to the Declarant's interest in the Property or a grantee in a deed in lieu of foreclosure from the Declarant, who acquires not less than five (5) undeveloped Lots (other than Garage Lots) for purposes of development. The Class B Member shall have three (3) votes for each Lot in which it owns a fee or undivided fee interest, except for

Garage Lots. The Class B Member shall initially have one hundred fourteen (114) votes. This number shall be increased by three (3) votes for each Lot which is annexed within the jurisdiction of the Association in accordance with Article II, Section 2 of the Declaration in excess of thirty-eight (38) Lots (other than Garage Lots), and shall be decreased by three (3) votes for each Lot (other than a Garage Lot) conveyed to a Class A Member.

The Class B membership and Class B voting rights shall cease, and be converted to a Class A membership with Class A voting rights as to each and every Lot in which the Declarant then holds the interest otherwise required for Class A membership, upon the earliest to occur of the following events:

- (i) one hundred twenty (120) days following the date on which the total authorized, issued and outstanding votes of the Class A Members equals the number of votes of the Class B Member; or
- (ii) ten (10) years after the date of recordation of this Declaration by the Declarant; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's reasonable control, the aforesaid ten (10)-year period shall be extended by a period of time equal to the lesser of (a) the period of the delays, or (b) an additional five (5) years; or
- (iii) upon the surrender of said Class B membership by the then holders thereof for cancellation on the books of the Association.

Garage Lots and Garage Units. Notwithstanding anything to the contrary set forth herein, an Owner of a Garage Lot (whether a Class A Member or a Class B Member) shall not be entitled to a vote for such Garage Lot, whether or not a Garage Unit has been constructed on the Garage Lot. Each Owner of a Garage Lot, whether or not improved with a Garage Unit, shall have no voting rights by reason of the ownership of such Garage Lot or Garage Unit, but such Owner shall have those voting rights as set forth above solely relating to those Lot(s) owned by such Owner on which a Living Unit is or may be constructed.

If any membership is held by more than one person, the voting rights appurtenant to that membership may be exercised by any one of the Members holding that membership, unless any objection or protest by any other holder of such membership is made prior to the completion of a vote, in which case the vote for such membership shall not be counted, but the Member whose vote is in dispute shall be counted as present at the meeting for quorum purposes if the protest is lodged at such meeting. Except in the case of the Class B voting rights, in no event shall more than one vote be cast with respect to any Lot.

4.2 Class A Members and Class B Members shall have voting rights, as the same are expressly set forth in the Declaration. Each Member shall have a right and easement of enjoyment in and to the Common Areas, including, without limitation, an easement for the use and enjoyment of the private streets, alleyways, sidewalks, and walkways, if any, within the Common Areas, which right and easement of enjoyment shall be appurtenant to and shall pass with the title to every Lot, for purposes of ingress and egress to and from such Member's Lot.

4.3 Except as provided otherwise by law, where a vote of the Members is required, the Board of Directors shall determine by resolution whether the questions shall be decided by ballot vote at a meeting or by mail or at polling places designated by the Board, and shall give notice thereof as provided in the Bylaws.

## ARTICLE V

### BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of Directors. Except for directors appointed by the Declarant pursuant to the Bylaws of the Association, a director must be a Member of the Association or an officer of a corporation which is a Member of the Association, or a partner in a partnership which is a Member of the Association, or a trustee of a trust which is a Member of the Association. The number and method of selection shall be as provided in the Bylaws of the Association. The initial Board of Directors shall consist of three (3) Directors appointed by the Declarant. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

<u>Name</u>	<u>Address</u>
Le Roy Eakin, III	c/o Eakin-Youngentob Associates, Inc. 1000 Wilson Boulevard, Suite 2720 Arlington, Virginia 22209
Robert D. Youngentob	c/o Eakin-Youngentob Associates, Inc. 1000 Wilson Boulevard, Suite 2720 Arlington, Virginia 22209
Frank R. Connors	c/o Eakin-Youngentob Associates, Inc. 1000 Wilson Boulevard, Suite 2720 Arlington, Virginia 22209

Officers of the Association shall be elected and shall serve as provided for in the Bylaws of the Association.

## **ARTICLE VI**

### **DURATION**

The corporation shall exist perpetually unless dissolved as provided in Article VII.

## **ARTICLE VII**

### **DISSOLUTION**

The Association may be dissolved at a duly held meeting at which a quorum is present upon the approval of (i) at least sixty-seven percent (67%) of the votes, in person or by proxy, of the Class A Members, (ii) the Class B Member, if the Class B membership still exists, and (iii) at least sixty-seven percent (67%) of the First Mortgagees (as defined in the Declaration). Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets (which shall be consonant with this Article VII) shall be mailed to every Member not less than ten (10) nor more than ninety (90) days in advance of any action to be taken. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to the District of Columbia or another appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to similar purposes. Upon dissolution, Articles of Dissolution shall be filed with the District of Columbia.

## **ARTICLE VIII**

### **SEVERABILITY**

Invalidation of any of these articles or sections of articles by judgment or court order shall in no way effect any other provisions, which shall remain in full force and effect.

## **ARTICLE IX**

### **REGISTERED AGENT**

The address including street and number and zip code, of the initial registered office are as follows:

- 9.1 The initial registered office of the Association is located at 5060 Millwood Lane, N.W., Washington, D.C. 20016 located in the District of Columbia.
- 9.2 Le Roy Eakin, III, who is a resident of the District of Columbia, and whose business address is 5060 Millwood Lane, N.W., Washington, D.C. 20016, is hereby appointed the initial registered agent of the Association.

## **ARTICLE X**

### **ANNEXATION**

Additional properties may be annexed to the area subject to the Association as provided in Article II of the Declaration.

## ARTICLE XI

### INCORPORATORS

The names and addresses of the Incorporators are as follows:

<u>Name</u>	<u>Address</u>
Le Roy Eakin, III	c/o Eakin-Youngentob Associates, Inc. 1000 Wilson Boulevard, Suite 2720 Arlington, Virginia 22209
Robert D. Youngentob	c/o Eakin-Youngentob Associates, Inc. 1000 Wilson Boulevard, Suite 2720 Arlington, Virginia 22209
Frank R. Connors	c/o Eakin-Youngentob Associates, Inc. 1000 Wilson Boulevard, Suite 2720 Arlington, Virginia 22209

## ARTICLE XII

### AMENDMENTS

Amendment of these Articles shall require the consent of Members entitled to cast not less than seventy-five percent (75%) of the votes of all Members of the Association.

## ARTICLE XIII

### LIABILITY

No Director or officer of the Association shall be liable to the Association or to its Members for money damages except (i) to the extent that it is proved that such Director or officer actually received an improper benefit or profit in money, property or services, for the amount of the benefit or profit in money, property or services actually received, or (ii) to the extent that a judgment or other final adjudication adverse to such Director or officer is entered in a proceeding based on a finding in the proceeding that such Director's or officer's action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding.

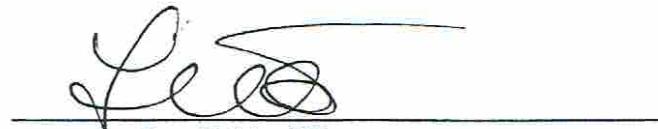
## ARTICLE XIV

### MISCELLANEOUS

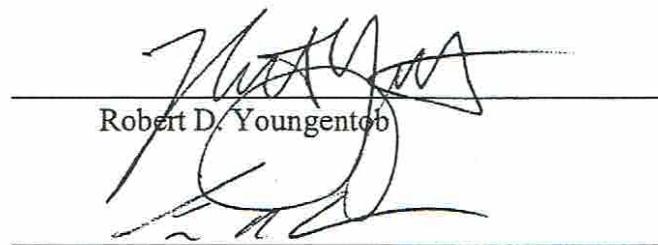
Unless it is plainly evident from the context that a different meaning is intended, all terms used herein shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these Articles and the Declaration, the terms and provisions of the Declaration shall control.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the District of Columbia, we, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation as of the 1st day of December, 2003.

INCORPORATORS



Le Roy Eakin, III



Robert D. Youngentob



Frank R. Connors

[188264]

COMMONWEALTH OF VIRGINIA )  
COUNTY OF ARLINGTON ) ss:  
 )

I, Jennifer L. A. Pfeiffer, a Notary Public, hereby certify that on the 1<sup>st</sup> day of December, 2003, Le Roy Eakin, III, Robert D. Youngentob and Frank R. Connors appeared before me and signed the foregoing document as incorporators, and have averred that the statements therein contained are true.

[Notarial Seal]

My commission expires: 1/31/06

Jennifer L. A. Pfeiffer  
Notary Public

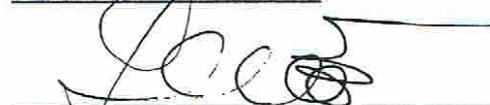
Commissioned as  
Jennifer L. Art

WRITTEN CONSENT OF REGISTERED AGENT

The undersigned, Le Roy Eakin, III, whose address is 5060 Millwood Lane, Washington, D.C. 20016, hereby consents to his appointment as registered agent for the service of process for Bryan Square Homeowners Association, Inc., a District of Columbia non-profit corporation, said appointment to commence from the date hereof and to continue until the undersigned withdraws as registered agent by written notice to said nonprofit corporation or said non-profit corporation informs the undersigned by written notice of a substitute appointment. The undersigned certifies that he is a resident of the District of Columbia.

IN WITNESS WHEREOF, the undersigned has on this 1st day of December, 2003 signed, sealed and delivered this consent as his act and deed.

REGISTERED AGENT

  
(SEAL)  
Le Roy Eakin, III